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**DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection**

Modification of National Customs Automation Program (NCAP) Test Concerning the use of the Partner Government Agency Message Set through the Automated Commercial Environment (ACE) for the Submission of Certain Data Required by the Environmental Protection Agency (EPA)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces U.S. Customs and Border Protection's (CBP's) plan to modify the National Customs Automation Program (NCAP) test concerning the transmission of electronic filings through the Automated Commercial Environment (ACE), known as the Partner Government Agency (PGA) Message Set test. This modification expands the use of the ACE PGA Message Set to transmit Environmental Protection Agency (EPA) Notice of Arrival of Pesticides and Devices (NOA) import data in the ocean and rail modes of transportation. PGA Message Set data may be submitted only for certain entries filed at certain ports.

This modified test is in furtherance of key CBP International Trade Data System (ITDS) initiatives as provided in the Security and Accountability For Every Port Act (SAFE) of 2006 to achieve the vision of ACE as the single window for the Government and trade community by automating and enhancing the interaction between international trade partners, CBP, and PGAs by facilitating electronic collection, processing, sharing, and review of trade data and documents required by Federal agencies during the cargo import and export process. The initiatives will significantly increase efficiency and reduce costs over the manual, paper-based interactions that have been in place. The PGA Message Set will improve communication between agencies and filers regarding imports

and when applicable, will allow test participants to submit the required data once rather than submitting data separately to each agency, resulting in quicker processing. During this test, participants will collaborate with CBP and EPA to examine the effectiveness of the single window capability.

This notice invites public comment concerning the test program, provides legal authority for the test, explains the purpose of the test and test participant responsibilities, identifies the regulations that will be waived under the test, provides eligibility and selection criteria for participation in the test, provides a link to a list of ports that are accepting PGA Message Set data under this test, explains the application process, and determines the duration of the test. This document also explains the repercussions and appeals process for misconduct under the test.

DATES: The modified PGA Message Set test will commence no earlier than April 15, 2015, and will continue until concluded by way of announcement in the **Federal**

Register. Comments will be accepted through the duration of the test.

ADDRESSES: Comments concerning this notice and any aspect of this test may be submitted at any time during the test via email to Josephine Baiamonte, ACE Business

Office (ABO), Office of International Trade at josephine.baiamonte@cbp.dhs.gov. In the subject line of your email, please indicate, “Comment on PGA Message Set Test FRN”.

FOR FURTHER INFORMATION CONTACT: For PGA related questions, contact Elizabeth McQueen at elizabeth.mcqueen@cbp.dhs.gov. For technical questions related to the Automated Commercial Environment (ACE) or Automated Broker Interface (ABI) transmissions, contact your assigned client representative. Interested parties without an assigned client representative should direct their questions to Steven Zaccaro at steven.j.zaccaro@cbp.dhs.gov with the subject heading “PGA Message Set EPA NOA Test FRN-Request to Participate”.

SUPPLEMENTARY INFORMATION:

Background

On December 13, 2013, U.S. Customs and Border Protection (CBP) published in the **Federal Register** a notice announcing a National Customs Automation Program (NCAP) test called the Partner Government Agency (PGA) Message Set test. See 78 FR 75931. The PGA Message Set is the data needed to satisfy the PGA reporting requirements. ACE enables the message set by acting as the “single window” for the submission of trade-related data required by the PGAs only once to CBP. This data must be submitted at any time prior to the arrival of the merchandise on the conveyance transporting the cargo to the United States as part of an ACE Cargo Release. The data will be validated and made available to the relevant PGAs involved in import, export, and transportation-related decision making. The data will be used to fulfill merchandise entry requirements and will allow for earlier release decisions and more certainty for the

importer in determining the logistics of cargo delivery. Also, by virtue of being electronic, the PGA Message Set will eliminate the necessity for the submission and subsequent handling of paper documents.

The December 2013 **Federal Register** notice announced that ACE would be accepting certain PGA data elements for the Environmental Protection Agency (EPA) and the U.S. Department of Agriculture, Food Safety and Inspection Service (FSIS) for type “01” (consumption) and type “11” (informal) commercial entries filed at specified ports. These data elements are generally those found in the current paper form (EPA Forms 3520–1 and 3520–21; and FSIS Form 9540–1) and also include data submissions related to Ozone Depleting Substances (ODS) imports, which are currently handled via phone and email. The December 2013 **Federal Register** notice also provides additional background on the NCAP and the International Trade Data System (ITDS). See 78 FR 75931.

This document announces CBP’s plan to expand the PGA Message Set test to now also include electronic filings of the EPA Notice of Arrival of Pesticides and Devices (NOA). This new PGA Message Set capability will satisfy the EPA NOA data requirements for formal and informal consumption entries through electronic filing in ACE as opposed to filing in paper.

For the convenience of the public, a chronological listing of **Federal Register** publications detailing ACE test developments in Entry, Summary, Accounts and Revenue (ESAR) is set forth below in Section XII, entitled, “Development of ACE Prototypes”. The procedures and criteria related to participation in the previous ACE notices remain in

effect unless otherwise explicitly changed by this or subsequent notices published in the **Federal Register**.

I. Authorization for the Test

The Customs Modernization provisions in the North American Free Trade Agreement Implementation Act provide the Commissioner of CBP with authority to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. This test is authorized pursuant to § 101.9(b) of title 19 of the Code of Federal Regulations (19 CFR 101.9(b)) which provides for the testing of NCAP programs or procedures. See Treasury Decision (T.D.) 95–21.

II. Partner Government Agency Message Set

At this time, CBP is expanding the use of the PGA Message set to include electronic filings of the EPA Notice of Arrival of Pesticides and Devices (NOA) for type “01” (consumption) and type “11” (informal) commercial entries filed at specified ports. The data elements are those found in the current paper form (EPA Form 3540-1, Notice of Arrival of Pesticides and Devices). The NOA data elements are set forth in the supplemental Customs and Trade Automated Interface Requirements (CATAIR) guidelines for EPA. These technical specifications, including the CATAIR chapters and applicable **Harmonized Tariff Schedule of the United States** (HTSUS) codes, can be found at the following link:

<http://www.cbp.gov/document/forms/epa-supplemental-catair-guidelines>.

At this time, a limited number of ports will be accepting PGA Message Set data. A list of those ports is provided on the following Web site:

<http://www.cbp.gov/document/guidance/list-aceitds-pga-message-set-pilot-ports>.

CBP may expand to additional ports in the future. Test participants should monitor the website for updates to the list of ports accepting PGA Message Set data.

III. The Environmental Protection Agency (EPA) Notice of Arrival of Pesticides and Devices

Section 17(c) of the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §136o(c), provides that the Secretary of the Treasury [CBP] shall notify the Administrator of EPA of the arrival of pesticides and devices into the United States. 19 CFR §12.112 states that an importer desiring to import pesticides into the United States shall submit a Notice of Arrival of Pesticides and Devices (EPA Form 3540-1) to the Administrator of EPA. In practice, importers or brokers file the notice of arrival for these products. The NOA requires the identification and contact information of parties involved in the importation of the pesticide or device as well as information on the identity of the imported pesticide or device.

Importers of pesticides or devices are required to file a copy of the NOA prior to arrival of the shipment, generally on paper. Most of the time prior to arrival, the NOA is first filed with an EPA Import Coordinator in the region where the Port of Entry is located. Delivery costs are incurred. EPA staff review the NOA and make a determination as to whether the shipment should be released, detained, or refused. This involves manual checking of key information against EPA data bases. The NOA is

signed and returned to the importer. It is presented to the CBP official at the time of entry along with other required documentation. The current process is costly and inefficient because it relies on paper and ink signatures, and manual data validation and error correction. The review process can take several days during which more costs may be incurred for storage.

This document announces CBP's plan to allow the use of the PGA Message Set for electronic filings of the EPA Notice of Arrival of Pesticides and Devices (NOA) to satisfy the NOA data requirements for formal and informal consumption entries as opposed to filing in paper.

The electronic NOA will be filed once through the single window with both EPA and CBP for pre-arrival using the PGA Message Set. This will eliminate these separate paperwork filings to both agencies for participating importers and as a result, reduce the overall paperwork burden on the importer and port associated with these EPA regulated shipments. It will also significantly reduce the initial processing/review time for the NOAs (often from days to minutes), provide consistency of this review across all EPA regions, and eliminate the delivery service charges for the paper form. The electronic filing will also allow electronic checks of certain mandatory information including registration numbers which facilitates pre-arrival admissibility verifications, thereby focusing CBP and EPA resources on shipments of interest, as well as providing feedback to the filer.

At this time, the test will include only entries originating in the ocean and rail environment. Truck and air modes of transportation will be included in later stages of the

test. Upon acceptance into this test, participants will be required to transmit the NOA data elements for entries originating in the ocean and rail environments, as specified in this notice.

IV. Test Participant Responsibilities

PGA Message Set test participants will be required to:

Transmit the applicable data with the ports that are accepting the ACE PGA Message Set data. A current list of those ports are posted on the following Web site;;

<http://www.cbp.gov/document/guidance/list-aceitds-pga-message-set-pilot-ports>.

- Transmit, when applicable, the data elements contained in the Notice of Arrival of Pesticides and Devices (NOA – EPA Form 3540-1) form using the PGA Message Set. This information must be electronically transmitted to ACE using the ACE Entry Summary at any time prior to the arrival of the merchandise on the conveyance transporting the cargo to the United States;
- Transmit PGA Message Set import filings only as part of an ACE Entry Summary certified for cargo release;
- Transmit import filings to CBP via ABI in response to a request for documentation or in response to a request for release information for certified ACE Cargo Release;
- Only transmit to CBP information that has been requested by CBP or the EPA;
- and
- Take part in a CBP evaluation of this test.

Participants are reminded that they should only file documents that CBP can accept electronically. The documents CBP can accept electronically are set forth in the **Federal Register** (79 FR 36083) notice announcing expansion of the Document Image System (DIS) Test (see Section XIV below) and in the PGA Message Set part of the CATAIR using the Automated Broker Interface. If CBP cannot accept the additional information electronically, the filer must file the additional information by paper. See 78 FR 75931 at 75934-35 (December 13, 2013), for information on Confidentiality (Section XIII) and Misconduct under the PGA Message Set Test (Section XIV).

V. Waiver of Regulation under the Test

For purposes of this test, 19 C.F.R. §§12.110 – 12.117 will be waived for test participants only insofar as eliminating any requirement that may appear in these regulations to file a paper version of EPA Form 3540-1 (Notice of Arrival of Pesticides and Devices). In its place, test participants are required to transmit electronically the data, elements contained in EPA Form 3540-1 (Notice of Arrival of Pesticides and Devices). This document does not waive any recordkeeping requirements found in part 163 of title 19 of the CFR (19 CFR part 163) and the Appendix to part 163 (commonly known as the “(a)(1)(A) list”).

VI. Eligibility Criteria

As announced in this notice, the use of the PGA Message Set test is expanding to accept EPA NOA data elements. All other eligibility criteria as specified in prior PGA

Message Set test notices remain the same. To be eligible to apply for this test, the applicant must:

- Be a self-filing importer who has the ability to file ACE Entry Summaries certified for cargo release or a broker who has the ability to file ACE Entry Summaries certified for cargo release; and
- File entries for EPA commodities that are the subject of this test at the ports that are accepting PGA Message Set data.

Except for those interested in participating in the Ozone Depleting Substances portion of the test (announced in 78 FR 75931, December 13, 2013), CBP will accept an unlimited number of participants for the test.

Test applicants must meet the eligibility criteria described in this document to participate in the test program.

VII. Application Process

Any party seeking to participate in the modified PGA Message Set test, including those previously accepted into the PGA Message Set test announced in December 2013 (78 FR 75931), should email their CBP Client Representative, ACE Business Office (ABO), Office of International Trade to request participation in the modified test. Interested parties without an assigned client representative should submit an email to Steven Zaccaro at steven.j.zaccaro@cbp.dhs.gov with the subject heading “PGA Message Set EPA NOA Test FRN-Request to Participate”.

Emails sent to the CBP client representative or to Steven Zaccaro must include the applicant’s filer code and the port(s) at which they are interested in filing the

appropriate PGA Message Set information. At this time, PGA Message Set data may be submitted only for entries filed at certain ports. A current listing of those ports may be found on the following Web site: <http://www.cbp.gov/document/guidance/ace-cargo-release-pilot-ports>.

Client representatives will work with test participants to provide information regarding the transmission of this data. CBP will begin to accept applications upon the date of publication of this notice and will continue to accept applications throughout the duration of the test. CBP will notify the selected applicants by email of their selection and the starting date of their participation. Selected participants may have different starting dates. Anyone providing incomplete information, or otherwise not meeting participation requirements, will be notified by email and given the opportunity to resubmit their application.

VIII. Test Duration

The modified test will begin no earlier than [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION in the **Federal Register**] and is intended to last approximately two years from the date of this notice. At the conclusion of the test, an evaluation will be conducted to assess the effect that the PGA Message Set has on expediting the submission of EPA and importation-related data elements and the processing of EPA entries. The final results of the evaluation will be published in the **Federal Register** and the Customs Bulletin as required by section 101.9(b)(2) of the CBP regulations (19 CFR 101.9(b)(2)).

IX. Comments

All interested parties are invited to comment on any aspect of this test at any time. CBP requests comments and feedback on all aspects of this test, including the design, conduct and implementation of the test, in order to determine whether to modify, alter, expand, limit, continue, end, or fully implement this program.

X. Paperwork Reduction Act

The collections of information in this test modification, EPA Form 3540-1 (Notice of Arrival of Pesticides and Devices), have been reviewed by OMB in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 2070-0020. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

XI. List of PGA Programs Currently Accepting Data Through the ACE PGA Message Set Test

- Environmental Protection Agency (EPA) Ozone Depleting Substances (ODS) program data.
- EPA Vehicle and Engine (V&E) program data.
- EPA Notice of Arrival of Pesticides and Devices (NOA – EPA Form 3540-1) data. (Ocean and Rail Modes Only)
- U.S. Department of Agriculture (USDA), Food Safety and Inspection Service (FSIS), meat, poultry, and egg products data.

XII. Development of ACE Prototypes

A chronological listing of **Federal Register** publications detailing ACE test developments is set forth below.

- ACE Portal Accounts and Subsequent Revision Notices: 67 FR 21800 (May 1, 2002); 69 FR 5360 and 69 FR 5362 (February 4, 2004); 69 FR 54302 (September 8, 2004); 70 FR 5199 (February 1, 2005).
- ACE System of Records Notice: 71 FR 3109 (January 19, 2006).
- Terms/Conditions for Access to the ACE Portal and Subsequent Revisions: 72 FR 27632 (May 16, 2007); 73 FR 38464 (July 7, 2008).
- ACE Non-Portal Accounts and Related Notice: 70 FR 61466 (October 24, 2005); 71 FR 15756 (March 29, 2006).
- ACE Entry Summary, Accounts and Revenue (ESAR I) Capabilities: 72 FR 59105 (October 18, 2007).
- ACE Entry Summary, Accounts and Revenue (ESAR II) Capabilities: 73 FR 50337 (August 26, 2008); 74 FR 9826 (March 6, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR III) Capabilities: 74 FR 69129 (December 30, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR IV) Capabilities: 76 FR 37136 (June 24, 2011).
- Post-Entry Amendment (PEA) Processing Test: 76 FR 37136 (June 24, 2011).
- ACE Announcement of a New Start Date for the National Customs Automation Program Test of Automated Manifest Capabilities for Ocean and Rail Carriers: 76 FR 42721 (July 19, 2011).

- ACE Simplified Entry: 76 FR 69755 (November 9, 2011).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS): 77 FR 20835 (April 6, 2012).
- National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Simplified Entry: Modification of Participant Selection Criteria and Application Process: 77 FR 48527 (August 14, 2012).
- Modification of NCAP Test Regarding Reconciliation for Filing Certain Post-Importation Preferential Tariff Treatment Claims under Certain FTAs: 78 FR 27984 (May 13, 2013).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE), 78 FR 44142, published July 23, 2013.
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE); Correction; 78 FR 53466, published August 29, 2013.
- Modification of NCAP Test Concerning Automated Commercial Environment (ACE) Cargo Release (formerly known as Simplified Entry): 78 FR 66039, published November 4, 2013.
- Post-Summary Corrections to Entry Summaries Filed in ACE Pursuant to the ESAR IV Test: Modifications and Clarifications: 78 FR 69434, published November 19, 2013.

- National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Environmental Protection Agency and the Food Safety and Inspection Service Using the Partner Government Agency Message Set Through the Automated Commercial Environment (ACE): 78 FR 75931 (December 13, 2013).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Ocean and Rail Carriers: 79 FR 6210 (February 3, 2014).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release To Allow Importers and Brokers To Certify From ACE Entry Summary 79 FR 24744 (May 1, 2014)
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Truck Carriers 79 FR 25142 (May 2, 2014)
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment Document Image System 79 FR 36083 (June 25, 2014).
- Announcement of eBond Test: 79 FR 70881 (November 28, 2014).

- eBond Test Modifications and Clarifications: Continuous Bond Executed Prior to or Outside the eBond Test May Be Converted to an eBond by the Surety and Principal, Termination of an eBond, Identification of Principal on an eBond by Filing Identification Number, and Email Address Correction: 80 Fed Reg 899 (January 7, 2015).

Dated: January 30, 2015.

Brenda Smith,
Assistant Commissioner,
Office of International Trade.

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